

**REMARKS**

In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested. Pursuant to 37 CFR § 1.121, attached as Appendix A is a Version With Markings to Show Changes Made.

The objection to the drawings is obviated in view of the Submission of Corrected Formal Drawings filed herewith.

The rejection of claims 11 and 15 under 35 U.S.C. § 112, first paragraph, for lack of enablement is respectfully traversed in view of the above amendments. In particular, the plasmids pJS112, pJS21, and pJM001 have been deposited with the American Type Culture Collection, Manassas, VA 20110-2209 under the terms of the Budapest Treaty and will become available to the public upon the issuance of a patent. The specification has been amended to include the ATCC Accession numbers for the above plasmids. No new matter has been added. Attached as Exhibit 1 is a copy of the deposit receipts for the plasmids pJS112, pJS21, and pJM001.

The rejection of claim 4 under 35 U.S.C. § 112, second paragraph, for indefiniteness is respectfully traversed in view of the above amendments.

The rejection of claims 1-18 under 35 U.S.C. § 112, second paragraph, for indefiniteness is respectfully traversed. It is the position of the U.S. Patent and Trademark Office that reference to an "ABRC unit" in the claims is both vague and indefinite. Applicants respectfully disagree.

In particular, the term "ABRC unit" is a well known term in the art and is defined in the specification of the present application. More specifically, the term ABRC is used and defined in Shen et al., "Modular Nature of Absciscic Acid (ABA) Response Complexes: Composite Promoter Units That Are Necessary and Sufficient for ABA Induction of Gene Expression in Barley," The Plant Cell, 8:1107-1119 (1996) ("Shen I"), Shen et al., "Functional Dissection of an Absciscic Acid (ABA)-Inducible Gene Reveals Two Independent ABA-Responsive Complexes Each Containing a G-Box and a Novel *cis*-Acting Element," The Plant Cell, 7:295-307 (1995) ("Shen II"), and Su et al., "Dehydration-Stress-Regulated Transgene Expression in Stably Transformed Rice Plants," Plant Physiol., 117:913-922 (1998) ("Su"), which are incorporated by reference in the present application. Shen I, Shen II, and Su define the term ABRC as an Absciscic Acid (ABA) response complex, the promoter unit necessary and sufficient for ABA induction of gene expression (see, e.g.,

the Abstract of Shen I, Shen II, and Su and the Abbreviations Footnote in Su). In addition, Shen I, Shen II, and Su each disclose particular ABRC units, as set forth the above-identified application at page 11, lines 9-18 of the specification. More specifically, Shen I discloses an ABRC unit from a barley *HVA1* gene which includes a 10-bp box with an ACGT core (ACGT-box) and the 11 bp directly upstream, named coupling element 3 (CE3) ("ABRC3"). Shen II and Su disclose an ABRC unit from a barley *HVA22* gene which includes a G-box, namely ABRE3, and a coupling element (CE1) ("ABRC1"), and Shen II discloses a second ABRC unit from the barley *HVA22* gene which includes a G-box, namely ABRE2, and a coupling element ("ABRC2"). Therefore, the term "ABRC unit" is both defined in the specification and common in the art. Accordingly, the rejection of claims 1-18 for indefiniteness is improper and should be withdrawn.

In view of the all of the foregoing, applicants submit that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on the date below.	
<u>Feb. 14, 2002</u>	<u>Ruth R. Smith</u>
Date	Ruth R. Smith

## Appendix A

### Version With Markings to Show Changes Made

In reference to the amendments made herein to claim 4, additions appear as underlined text, while deletions appear as bracketed text, as indicated below:

#### In The Claims:

4. (Amended) A method according to claim 1, wherein the DNA molecule that increases tolerance to salt stress and drought stress is selected from the group consisting of a  $\Delta^1$ -pyrroline-5-carboxylate synthetase gene, *P5CS* -129A, *Hva1*, COR47, a mannitol 1-P-dehydrogenase gene, a gene for the biosynthesis of polyamines, and a gene for the biosynthesis of glycine betaine, trehalose, D-ononitol or fructans[, and a gene for regulating the expression of stress-responsive genes].